



RECEIVED

JUL 18 2003

TECH CENTER 1600/2900

PATENT
Customer No.: 27038
Attorney Docket No. 9210.8050-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Burton G. CHRISTENSEN, et al.

Application No.: 09/457,926

Filed: December 8, 1999

)
)
)
)
)
)

Group Art Unit: 1627

Examiner: M. Garcia Baker

#37
30995
82103

For: NOVEL ANTIBACTERIAL AGENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SUBMISSION UNDER 37 C.F.R. § 1.114

In reply to the Final Office Action dated July 2, 2002, Applicants respectfully request reconsideration of this application in light of this Submission Under 37 C.F.R. § 1.114(c). This paper is filed concurrently with a Request for Continued Examination under 37 C.F.R. § 1.114(a) and is timely in light of the Notice of Appeal filed November 4, 2002, the filing of Appellants' Brief on December 13, 2002, the Examiner's Answer mailed on March 10, 2003, and the filing of a Reply Brief and Request for Oral Hearing on April 28, 2003.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

RECEIVED
2003 JUL 22 PM 2:05
BOARD OF PATENT APPEALS
AND INTERFERENCES



RECEIVED

JUL 18 2003

TECH CENTER 1600/2900

TABLE OF CONTENTS

I.	DISPOSITION OF THE CLAIMS.....	1
II.	REJECTION UNDER 35 U.S.C. § 103(A).....	1
A.	The Examiner has failed to establish a proper prima facie case of obviousness	3
1.	The references do not contain a suggestion or motivation to combine them	4
a.	The Truett Reference	4
b.	The Boeckh Reference	7
c.	The Staroske Reference	7
d.	The Renoud-Grappin Reference	9
2.	The references do not indicate that one skilled in the art would have had a reasonable expectation of success	10
B.	The references teach away from the instant claims.....	12
1.	The Truett Reference.....	12
2.	The Boeckh Reference	13
3.	The Renoud-Grappin Reference.....	15
4.	The Staroske Reference	20
C.	The presently claimed invention was contrary to accepted wisdom in the art	21
D.	The combination of Truett and Boeckh would have rendered Boeckh unsuitable for its intended purpose.....	23
E.	The Renoud-Grappin reference is non-analogous art and cannot properly be used in combination to find the instant claims obvious under 35 U.S.C. § 103(a)	27
III.	CONCLUSION	30

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com